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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re P. A. et al., Persons Coming Under
the Juvenile Court Law.

B235323

(Los Angeles County
Super. Ct. No. CK84697)

JOSEPH A.,

Appellant,

v.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Respondent.

APPEAL from orders of the Superior Court of Los Angeles County, Zeke Zeidler,
Judge. Affirmed.

John Cahill, under appointment by the Court of Appeal, for Appellant.

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant County
Counsel and Timothy M. O’Crowley, Deputy Counsel for Respondent.

I. INTRODUCTION

The father, Joseph A., appeals from the juvenile court's June 2, 2011 visitation and restraining orders which were sought by the mother, Tina A. The juvenile court granted the mother's restraining order application. The juvenile court ordered the father to have no contact with her and the five children, P.A., B.A., P.H.A., P.P.A., and P.S.A., for three years. The father argues: the restraining order effectively terminates his family reunification services; he cannot visit his children to normalize and salvage his relationship with them; the visitation and restraining orders are not supported by substantial evidence; and he was deprived of his due process rights to notice. We disagree and affirm the juvenile court's restraining and visitation orders.

II. PROCEDURAL HISTORY

On October 18, 2010, the Department of Children and Family Services (the department) filed a Welfare and Institutions Code¹ section 300 petition pursuant to subdivisions (a), (b) and (j) on behalf of the children. The petition alleged the father used inappropriate physical discipline with the children by hitting them with wooden spoons and spatulas. The petition also alleged the father struck the mother in the children's presence. On October 18, 2010, the juvenile court detained the children and found they were persons described under section 300, subdivisions (a), (b) and (j). On October 21, 2010, the juvenile court detained the children from the father but released them to the mother on conditions that: he not reside in the home; she follow through with domestic violence and individual counseling for herself and the children; and she not act as a monitor for his visits with the children.

¹ All statutory references are to the Welfare and Institutions Code unless otherwise specified.

On November 24, 2010, the juvenile court sustained an amended petition finding the father inappropriately physically disciplined the children with wooden spoons and spatulas and struck the mother in the youngster's presence. The juvenile court ordered the children to remain in the mother's home and attend individual counseling to address case issues. The mother was ordered to attend domestic violence counseling for victims, parenting education and individual counseling to address case issues. The father was ordered to attend: domestic violence counseling; parenting education classes; and individual counseling. These programs were to address anger management issues. The father was granted monitored visitation with the department having discretion to liberalize the visits. The mother was not to monitor the father's visits.

On December 17, 2010, the mother applied for a restraining order, requesting she and the children be protected from the father. The mother requested the father not contact the mother or children "except for brief and peaceful contact" as required by court order. The juvenile court treated the temporary restraining order request as one for emergency protective order. The juvenile court issued an emergency protective order for five days. The juvenile court stated the order would expire on December 22, 2010, at which time it would conduct a full hearing on the temporary restraining order issue. The juvenile court ordered monitored weekly visits for the father and children with a department-approved monitor. In addition, the department could not liberalize the visits while the emergency protective order was in place.

On December 22, 2010, the juvenile court issued a restraining order valid through May 18, 2011, to match the December 17, 2010 emergency protective order. The juvenile court explained on December 18, 2010, there had been an agreement by the father's attorney, Mark Tseselsky, to a hearing on the issuance of a temporary restraining order: "Based on Mr. Tseselsky's willingness to have today a hearing on restraining order as opposed to temporary restraining order, the court is issuing a restraining order through May 18th of 2011 and setting another hearing on restraining order on May 18th of 2011. And the restraining order today matches the emergency protective order that the father was served with last week." The hearing on the restraining order application was

set for May 18, 2011. The father was warned if he was not present that date, another restraining order could issue for up to three years. The juvenile court ordered the department to ensure the children were in individual counseling as soon as possible. The disposition case plan was modified to include conjoint counseling between the father and children when recommended by the therapists.

On March 22, 2011, the department filed a section 388 petition requesting a change to the visitation order. The department alleged all five children informed the social worker and their attorneys they did not wish to visit the father. On April 25, 2011, the juvenile court held a hearing on the section 388 petition. The juvenile court noted the department recommended no visits for the children but the section 388 petition did not seek such relief to that effect. The juvenile court stated its tentative ruling was to modify the case plan to: order the father's visits be in a therapeutic setting with a mutual therapist; deny the department's request to discontinue visits; or in the alternative to order the visits to be at a therapist's discretion. The juvenile court granted the section 388 petition in part. The juvenile court granted the father weekly monitored visits with the three boys in a therapeutic setting with a neutral therapist. Also, the father was granted one visit with the girls, in a therapeutic setting between April 25, 2011, and the next court date, May 18, 2011.

On May 18, 2011, the mother filed a restraining order application which requested she and the children be protected from the father. The application requested the father not contact the mother or children "except for brief and peaceful contact as required" by court order. On May 18, 2011, the juvenile court issued a temporary restraining order against the father. The juvenile court set a June 2, 2011 hearing date on the restraining order application. The father was ordered to return for the June 2, 2011 hearing. The father was informed if he was not present, the juvenile court could proceed in his absence, which could include the issuance of a restraining order for three years. The juvenile court also stated at the June 2, 2011 hearing, it intended to consider an oral section 388 petition to terminate the father's visits with the girls. The juvenile court

suspended the father's visits with the girls through June 2, 2011. The juvenile court ordered the three boys present for a courthouse visit with the father on June 2, 2011.

At the June 2, 2011 hearing, the juvenile court granted the section 388 petition and terminated visits between the father and the girls. The juvenile court found the visits would be detrimental to the girls' well-being. In addition, the juvenile court held a hearing on the restraining order. After hearing evidence, the juvenile court issued a three-year restraining order against the father. The father was ordered to have no contact with the mother or children. The restraining order was issued through June 2, 2014. On July 29, 2011, the father timely filed his notice of appeal.

III. EVIDENCE

A. October 18, 2010 Non-Detained Detention Report

On March 23, 2010, Tanesha Sims, a department social worker, received an immediate response referral from the child abuse hotline. The form stated the oldest daughter, P.A., said the father had struck her. Also, P.A. said the father hit the mother. These violence allegations were made to P.A.'s school counselor. The mother was asked about the allegation by the school counselor. The mother admitted the allegations were true.

Ms. Sims arrived at the family's home with the unidentified San Gabriel Police Department officers to investigate the referral. The father was uncooperative and refused to allow Ms. Sims to speak to the children alone. The father stated the neighbors were the cause of the referral because they did not like that he worships God. It took Ms. Sims and the police a half hour to persuade the father to let her speak to the children. The father allowed Ms. Sims to interview the children in the kitchen. This was within "eyesight and earshot" of the father. Meanwhile the father sat in the living room with the police. Ms. Sims took each child one by one to the opposite end of the kitchen and whispered questions so the father could not hear their conversation. The children told

Ms. Sims the father was physically abusive to the mother. All the children, except P.S.A., stated the father hit them with a wooden spoon or spatula. Ms. Sims requested the father receive services but he denied the abuse allegations and refused any help from the department. Finally, the father agreed to an Up Front Assessment by an outside evaluator. By the time the Up Front Assessment report was done, the referral was transferred to another department social worker, Kenneth Ellison.

Mr. Ellison visited the family to review the Up Front Assessment report and offer voluntary services. When Mr. Ellison arrived at the home, the father was uncooperative. The father did not allow Mr. Ellison to interview the children alone. The father remained within earshot of Mr. Ellison during the interviews. At one time the father corrected the child for giving “the wrong answer” regarding school grades. The children all denied the abuse allegations while in the father’s presence. Mr. Ellison also tried to question the mother. But the mother only stood by the father agreeing with him by nodding her head and referring to him for a response each time she was asked a question.

To interview the children in a neutral setting, Mr. Ellison obtained a warrant on September 15, 2010. He interviewed the oldest child, P.A., at her high school on September 24, 2010. P.A. was asked why she recanted the earlier abuse report she made. P.A. had complained to a school counselor about the father’s abuse. P.A. asked Mr. Ellison and the department to leave her family alone. Mr. Ellison explained that the mother and a sister, B.A., had already disclosed the abuse. P.A. began to weep and begged Mr. Ellison not to tell her father. The father then arrived at the front desk of the counselor’s office. The father demanded P.A. come out. P.A. heard her father, immediately wiped her tears, and asked Mr. Ellison, “Can you tell I’ve been crying?” The father came behind the front desk, ignoring the principal’s order to remain behind the counter. The father came into the counselor office, ignored the department’s warrant and took P.A. from school.

Later, Mr. Ellison arrived at the family’s home with unidentified law enforcement personnel to complete a safety check. (The report bureaucratically identifies the officers (if they were) as law enforcement.) When they arrived at the family home, the father

conspicuously shut the blinds in the living room. After the law enforcement personnel knocked on the door, the father answered and began to argue with them about the warrant. The father refused to allow the authorities into the house to conduct a safety check of the children until they threatened to arrest him. The mother grew impatient with the father's lack of cooperation. The mother told Mr. Ellison he could interview the children. Mr. Ellison was allowed to listen to their interview with each child in the driveway. The father was warned several times to remain inside the house because he stood in the front door while the children were being interviewed in the driveway. The children denied the abuse allegations and all stated, "Everything is perfect in our home" and, "My father only wants the best for my success and for my future."

B. November 22, 2010 Jurisdiction/Disposition Report

The jurisdiction/disposition report reported the family had four referrals concerning physical and emotional abuse by the father against the children and the mother. In each instance, the children recanted their initial disclosure of abuse. The report states, "This pattern of report and recant is a strong indicator of a family involved with physical abuse as well as domestic violence, which poses a serious risk and safety concern for this family."

The report reveals the children stated the father hits them. The mother also related she was struck by the father. The children said the father would hit the mother in front of them and leave bruises on her. The children stated one time the father pushed the mother down on the ground and punched her. The paternal grandmother just sat and watched in the living room and told the mother, "[W]hy aren't you crying yet, cry." The children cried and tried to stop the father from hitting the mother but he yelled at them to go to upstairs to their rooms. The children felt helpless and scared so they cried in their rooms until the beating ended. P.A., B.A. and P.H.A. reported the father was verbally abusive towards the mother. According to the three youngsters, he told the mother she is stupid and could not think for herself. B.A. stated the mother would try to do everything right

so the father would not get mad. But according to B.A., the father would find something to be upset about.

The mother said she has been abused by the father since 1992. The mother stated: “He has abused me since I came here to the United States, he came first in 1991 and I came in 1992. He has always physically abused since we have been married. He doesn’t drink or use drugs he just hits me. When he beats me he leaves me bruises. . . . The last time he beat me was when he knocked me down to the ground and had his hand around my throat he wasn’t strangling me but he had his hands around my neck. All the children were crying and he was yelling at them to shut up. He told them to go upstairs and shut up. I remember clearly that my mother in law was sitting with her legs crossed in the living room watching all of this and did nothing to stop him. She just watched. After I was able to get up I walked over to the kitchen and my husband followed me to slap me twice across my face. This is just one of the many times he hit me. Everything I do he doesn’t like. He gets upset with everything I do. He verbally abuses me I don’t even want to get into what he says it’s so terrible the thing he says. He has never apologized to me for any of the times he has hit me. He makes me apologize to him. He never feels bad for hitting the kids or hitting me ever. My mother in law always praises him and acts like her son can do no wrong. I have never left because I felt like it would be [worse] to have the courts and social workers in our lives. I tried to tell my oldest daughter that it’s better for us to stay like this and that I would take the abuse so the family could stay together. But my daughter said that if I didn’t do something he was going to end up killing me. My daughter said if I don’t do something then she will because she feared he was going to kill me.”

The mother and children said the father hits all the youngsters. All the children stated the father hits them with a wooden spoon and spatula. The children reported the father is emotionally abusive, calling them names, telling them they are stupid, and yelling at them all the time. The children also said they are scared of the father.

The oldest daughter, 17-year old P.A., stated: “Yes, I’m scared of my father. He gets mad at us and hits us. He get mad all the time his mood changes. You never know

what he is going to get mad at. He calls us names all the time. He tells us we are stupid. He would never say anything to empower us. He would always say negative things all the time. My [paternal] grandmother lives with us and sees it but never does anything about it. My dad hits all of us. We are all scared of him. I am scared to go to court. Last time when I was in Court I had to sit next to him in front of the judge and each time the judge was saying something that I told the social worker about my dad hitting us then he would press my chair with his foot. . . . I don't want to have visits with my dad. When I saw him at the visit he tries to show he is disappointed with me for telling what was going on at home."

The second daughter, 15-year old B.A., said: "My dad hits my mom a lot and he hits us with a wooden spoon when we do something he doesn't like. He broke the spoon so now it was with the spatula. I'm scared of my dad[,] he is going to get mad. He hits me the most. He never likes anything that I do. He would hit me all the time. My mom tries to stop him but then she would get hit. That would make me feel bad because it was my fault he was hitting my mom. It [is] hard having my [paternal] grandmother around [;] she never helped us when my dad was hitting or yelling at us. My grandmother is always on my dad's side."

The oldest boy, 12-year old P.H.A., stated: "Yes, he hits all of us with a wooden spoon with a spatula. He hits us with anything he finds. He hits me for any small mistake that happens at school. He yells at us all the time, he says we are stupid and he says other things. My mom tries to defend us but then he hits her too. I think it will get to the point that he will kill her one day. He usually gets mad with the girls[,] my mom and my sister[s]. But he also gets mad with me and my brothers. My [paternal] grandmother lives with us and she doesn't help [,] always sides with my dad. Now that my dad is gone she is always trying to find out what we are doing and tells him everything about us. . . . My grandmother never stopped my dad when he yells or hits us. She just watches him when he acts like that. Before when the police or social workers came to [our] house [,] my dad would tell us to lie to them and tell them that he never hits us and he never hit our mom. The police came many times but they never did anything

because we would always tell them that my dad never hit us or my mom. Now that we have told the truth [,] it's hard to see my dad because he is still saying he doesn't hit us or my mom."

One of the twin boys, 10-year old P.S.A., reported: "My dad hits us with wooden spoons, spatulas, or sometimes with a shoe. He hits us with whatever he finds when he gets mad at us. He can get mad at us for anything at anytime. It doesn't happen all the time. Not every day I mean but you never know what will make him mad and then hit you. If my mom tries to stop him then he will start hitting her. My [paternal] grandmother just watches him. She is always on his side. She thinks my dad is doing what's right. She watches us now all the time and I'm sure she calls my dad to tell him what we are doing. She was always favoring my dad and saying that we were bad. She still is doing that because she is living with us and it's really hard."

The other twin brother, 10-year old P.P.A., stated: "[My father] tries to teach us not to do again whatever we did wrong. That is the way he teaches us a lesson. He hits us with spatulas or wooden spoons. . . . We had the police come to our house many times and ask us if our dad was hitting us or our mom and my dad would tell us to lie. He would tell us if we lied everything would go away. So we always did. We always told the police that my dad never hits us and he never hit my mom. We are all scared now that he is going to come back to the house and he is going to be really mad at us because we told the truth. We told the truth about him hitting us and hitting our mom. He has always hit us and hit my mom. I'm scared to visit him because he will be upset that we all told the truth about the way he is with us. My [paternal] grandmother who lives with us tells him everything we are doing. She calls him because she is on his side and she thinks it's normal for him to hit us and to hit his wife. My dad always lies about hitting us. He says he never hits his wife. . . . Since my dad has been out of the house [,] my grades have gotten better because the pressure has been taken off of me. Before when he was home I knew if I didn't get an A he would beat me but I could never get "A"s because I was under so much pressure. Now that the pressure is gone I can get an A or a

B easily. My father never encouraged me or praised me [,] my mother always encourages me to do better.”

The mother stated the father would beat her when she tried to stop him from hitting the children. The mother reported: “I have tried to protect my children. I have tried to stop him but he starts beating me and verbally abusing me. We never know when he is going to get mad and hit [one] of us. I can’t think of an example to you that the children have done that caused him to hit them because it’s just because of his mood. We never know what he is going to do. He hits all of them the same with whatever objects he finds. When I try to stop him he starts beating me.”

The father denied hitting the mother. The father stated: “Like I said to you I have never hit my wife. I love my daughter I have no animosity towards her even though she said these things. I found out after the last court hearing. She is a kid and maybe because of [peer] pressure at school she started this. But my wife will tell you that I have never hit her.” The father also denied hitting the children: “My kids are good kids. If they misbehave then they get a time out. Me and my wife try talking to them. We try to reason with them but I have never hit my kids my wife can tell you.”

C. December 17, 2010 Restraining Order Application

On December 17, 2010, the mother applied for a restraining order, requesting she and the children be protected from the father. The mother stated the father called the maternal uncle in Holland and maternal aunt in Nigeria. The father told them the mother was leaving because she was having an affair. The father allegedly told the maternal aunt that if the mother did not come back to him in one week, he would take “drastic” action. The mother did not know what the father meant by “drastic action,” but she knew he owned a gun. The mother also stated she had changed her cellular telephone number. But the father managed to get the new number and had been calling her.

D. March 22, 2011 Section 388 Petition

On March 22, 2011, the department filed a section 388 petition requesting a change to the juvenile court's visitation order. The two daughters, P.A. and B.A., had refused to visit with the father from the start. The three boys, P.H.A., P.P.A. and P.S.A., had visits with the father until early January 2011. In January 2011, the father brought the paternal grandmother to a visit. The boys were afraid of the paternal grandmother and now no longer wanted to visit with the father.

In its April 21, 2011 section 388 petition, the department reported on April 4, 2011 it had received letters from each of the children's therapists rejecting the idea of the father's visits being in a therapeutic setting. The department recommended the juvenile court terminate its order allowing the father to have weekly visits in a therapeutic setting with the children. Instead, the department recommended monitored visits for the children with their father after consultation with and upon recommendation of the children's therapists.

In support of the section 388 petition, the department submitted a letter from Dr. Cheryl Valladares, P.A.'s therapist: "[P.A.] has been receiving therapy . . . weekly, and has been diagnosed with Post Traumatic Stress Disorder. [P.A.] has repeatedly stated how she fears her father . . . because of his violent temper. [P.A.] also stated that she does not want to have contacts/visits of any kind with her father. [P.A.] reported that one time she visited with her father at [the department], he constantly asked questions about her mother e.g., Who mother was talking to? Who comes to the house? Where does mother go? [¶] [P.A.'s] earliest recollection of physical abuse was age four-years-old. [P.A.] recalled being slapped by father for trying to stop him from hitting her mother. [P.A.'s] recollection of the incident was that father slapped her so hard that he left a handprint on her face that lasted three days. However, according to mother . . . [P.A.'s] first exposure to violence was when she was two weeks old when father hit [the mother] while she had [P.A.] in her arms. . . . [¶] [P.A.] has been exposed to violence/abuse since she was an infant. Due to constant exposure to physical and emotional abuse [P.A.] is

experiencing severe trauma. Although I understand father[’s] desire to visit with [P.A.], it is my professional opinion that visits with father would not be in the best interest of [P.A.’s] mental health. [P.A.] needs to be in a therapeutic environment where she can process her feelings freely without experiencing fear.” Dr. Valladares also provided the department with an update on a recent communication with P.A.: [P.A.] contacted me on yesterday 4/3/11 (Sunday) crying hysterically because she received an email stating that someone attempted to break into one of her college accounts. [P.A.] believed it was her father and she stated, “Why can’t he just leave us alone. He is making me crazy. Why can’t he just leave us alone.” [P.A.] expressed that she was very afraid that her father had attempted to break into her account and that he knew their new address. After speaking with her for approximately 45 minutes total, I was able to get her to calm down.”

The department also submitted a letter from B.A.’s therapist, Shanti Smith, a marriage and family therapist trainee: “The traumatic events of the physical and emotional abuse are persistently experienced by [B.A.] having intrusive and distressing thoughts and perceptions. These thoughts contribute to [B.A.] having strong feelings of hopelessness that she [relieves] herself of through self harm. External cues that resemble aspects of the traumatic event, such as seeing a car that looks like her father’s car, cause physiological reactions such as shaking, sweating, and her heart racing. [B.A.] makes efforts to avoid possible external stimuli by staying indoors more than other children her age. [¶] In exploring her current symptoms, the client has disclosed on March 1, 2011, that she will punch or cut herself when she thinks about dad and stated, ‘I’ll do it when I think about dad calling me stupid and stuff.’ Client also reported on this day shaking and her heart pounding when she “gets scared dad is following.” On March 22, 2011, the client disclosed again, ‘I’ll punch myself to make me forget about getting hit.’ Client reported on March 31, 2011, that the last instance of cutting herself was a ‘month ago’ when she got a bad grade. After exploring more detail the client stated, ‘I started thinking about being dumb and my dad calling me names so I cut my legs to forget about it.’ [¶] To reduce the severity of symptoms that the client is experiencing, the safety of the client has to be ensured. Because the client discloses that the reminder of the abuse

triggers her symptoms and behaviors, interactions with her father would be detrimental to the therapeutic process and contribute to her thought provoking anxiety and depression.”

The department submitted a second letter from Ms. Smith, who also is P.H.A.’s therapist: “The traumatic events of the physical and emotional abuse are persistently experienced by [P.H.A.] having intrusive, distressing thoughts, and intense psychological distress at exposure to external stimuli that resemble the past physical abuse. . . . External cues that resemble aspects of the traumatic event, such as seeing a car that looks like his father’s car, cause physiological reactions such as breathing fast, sweating, and his heart racing. [¶] In exploring his current symptoms, the client has disclosed on March 1st, 2011, that he is often scared and anxious in public places. He stated, ‘I always think my dad is following me.’ Therapist explored this anxiety further on March 15, 2011 and the client reported having reoccurring thoughts of his dad finding him. He said he is therefore on ‘the lookout’ for his dad’s car. He stated, ‘I look for the air freshener in the back of the car to make sure it’s not my dad’s.’ [P.H.A.] also reported shaking and getting sweaty when he is reminded of his past abuse. On March 22, 2011, [P.H.A.] explained that he feared attending court stating, ‘I am scared to see my dad.’ [¶] To reduce the severity of the symptoms that the client is experiencing, the safety of the client has to be ensured. Because the client discloses that the reminder of the abuse triggers his symptoms of anxiety and paranoid behaviors, interaction with his father would be detrimental to the therapeutic process and contribute to his thought provoking anxiety.”

In addition, the department submitted a letter from Vanessa Gonzalez, P.P.A.’s and P.S.A.’s therapist: “Both individuals have been seen weekly in individual sessions. We have been working on increasing sense of personal empowerment and decreasing sadness due to them witnessing and experiencing severe trauma in their childhood. [¶] However, there are a few concerns with . . . the children’s biological father attending therapy sessions. Both individuals have verbalized concerns regarding their biological father. Both individuals are apprehensive and have verbalized being in constant fear with the idea of being in close proximity with biological father. Both individuals have reported fearing for their safety and this clinician is concerned about their emotional

well-being. [¶] Overall, both individuals are in a safer environment with biological mother and siblings. Both individuals have been processing the emotions associated with the abuse.”

E. May 18, 2011 Status Review Report

In the May 18, 2011 status review report, the department stated the children continued to reside with the mother. The mother informed the department she did not want any contact with the father. Nor did mother desire any contact with the paternal grandmother. The mother continued to attend and participate in individual and group domestic violence counseling and was seen weekly by Dr. Valladares. The father was attending weekly individual therapy but had not attended any domestic violence classes or anger management counseling. The father’s therapist, Nicole Robella, stated he took responsibility for some actions but minimized his culpability in those actions. The father refused to go into depth regarding the allegations. He became very agitated and resistant when asked by Ms. Robello why his children felt the way they do about him.

P.A. reported she would be attending a university on a full academic scholarship after she graduated from high school. But she stated her university acceptance is a bittersweet reward because she continues to be depressed over the juvenile court order making the children attend counseling with the father. P.A. stated the very thought of being in her father’s company causes depression, fear, and the feeling he will return to the home and the beatings will resume. P.A. stated she got hit the least because she is a straight A student. She reported the father hit her and the mother so hard they both had black eyes. P.A. stated the mother had a black eye on more than one occasion. P.A. never called the authorities because she was afraid of her father. P.A. firmly believed her father will continue to do her harm if he is ever allowed to return to the home. She described an early monitored visit in which her father hugged her and pinched her hard on her back. P.A. believed the father was letting her know that he was angry with her and would “take care of” her later. She stated her father left a pinch mark on her back.

P.A. said while her father resided in the home, she was not allowed to have friends or go to school functions. The father's abuse made her feel ugly, socially inept and unworthy of having any friends. P.A. admitted her father intimidated her to the point that thinking of him being in her private space has triggered bouts of severe depression.

P.A. told Charles Matthews, a department social worker, she would not attend any counseling with the father. P.A. remarked the juvenile court had no idea the pain and suffering the father has imposed on her or her family. She indicated the father wanted to attend her counseling sessions to use what is being said against her and her family. She stated her father is so angry at her that her life would be in danger if she was in counseling with him.

B.A. stated she was terrified of the father. She said she saw the father hit and knock the mother down and then casually sit down to watch television. B.A. observed the father hit the mother and sister so hard he gave them each a black eye. B.A. cuts herself. B.A. did this in response to seeing the father inflict injury on the mother. The cutting also resulted from the feelings she experienced after she was beaten. According to Mr. Matthews: "[B.A.] states that to have her father near her causes her to want to cut herself. . . [¶] . . .[B.A.] states the cutting of herself is in response to the abuse she saw her father inflict in her mother and herself." B.A. said the stress caused by the father was so intense that she fainted as she exited the courtroom after the April 25, 2011 hearing. B.A. said the father was extremely critical and verbally abusive, calling her stupid on a consistent basis. She reported being hit the most because she did not hide her feelings towards the father. She felt depressed everyday and dreaded coming home from school when the father was present. B.A. stated if the father was allowed to be in her counseling sessions, it would lead to future verbal and physical abuse. This was because the father will use her words against her.

P.H.A. stated the home is calmer because there is no yelling, scolding and pressure. The biggest tension breaker was when the paternal grandmother was ordered to move out. P.H.A. is very fearful of the paternal grandmother. He believes she is a "witch" and has cast a spell over his family. At first he did not have a problem visiting

the father at the department's office. However, the father on each visit asked questions about what the mother was doing and who was in the house. On one visit, P.H.A. refused to answer the father's questions. Mr. Matthews described what happened next, "[The father] raised his hand to slap him, the [visitation] monitor stepped . . . in to stop his father from hitting him." Finally, P.H.A. stopped wanting to visit with the father. This occurred when the father placed the paternal grandmother at the entrance of the department office where the visit was occurring. P.H.A. was so scared of the paternal grandmother that he ran back to the car and told the mother. By the time a department social worker arrived, the paternal grandmother was gone. P.H.A. has nightmares about the father and paternal grandmother breaking into the home at night. P.H.A. feels the father is mad at the other children and mother. P.H.A. characterized the father as out of control. P.H.A. became upset when the juvenile court allowed the father to be present during a counseling session. According to Mr. Matthews, "[P.H.A.] states if his father heard what he had to say in a session his father would beat him later." Mr. Matthews continued to describe P.H.A.'s concerns: "His father has told him and his brothers this will be over very soon and we will be a Family again. [P.H.A.] takes this to mean don't say anything or you will be beat when I return home."

P.S.A. and P.P.A. stated there is no more tension in their home now that the paternal grandmother is no longer present to talk to the father and get the family in trouble. The twins now have friends and can go on school outings, something they were not allowed to do when the father was in the home. They are afraid of the father and do not want him to return home. They reported on one visit their father took pictures and told them to smile. This occurred when the father was angry with their older brother. The older brother had refused to tell the father what was going on in the family home. They stated the father raised a hand to hit their brother. But the department monitor stopped the father from striking P.H.A. The twins admit they stay up at night worrying that their father will break into their house. When they hear footsteps, they think it is their father breaking into the house. The twins fear their father is following them and know their new home. The father has told them everything will be over very soon and

they will be back together as a family. The twins are scared of this happening because they believe everyone will be beaten if the father returned home.

All the children refused to visit with the father. They indicated they still fear and mistrust their father too much to engage in any type of counseling with him. They believe their father is stalking them. They stated their father went to their area drug store and attempted to pick up their medications. The pharmacy notified the mother after refusing to release the medications to the father.

F. May 18, 2011 Restraining Order Application

On May 18, 2011, the mother filed a restraining order application against the father, seeking to protect herself and the children. The mother stated on May 11, 2011, she was shopping at a Rite-Aid store. The mother was confronted by the paternal grandmother. The paternal grandmother got very close and began yelling about the children. The paternal grandmother told the mother, "This will be over soon." The paternal grandmother would not back away so the mother ran. While the mother was paying for her items, she saw the father walking inside the store. The mother then got to her rental car. The mother saw the father and grandmother sit in their parked car. They followed the mother in their car. The father and paternal grandmother followed the mother in their car for 15 minutes. The mother was very frightened for her safety during the entire incident.

G. June 2, 2011 Restraining Order Hearing

At the June 2, 2011 hearing, the juvenile court heard testimony from the mother; the father's cousin, E. E.; and the father. The mother testified two or three months earlier, the father had called her co-workers. In addition, the pharmacy staff had called the mother two months ago to inform her that the father had come to ask for the children's medications.

The mother stated on May 11, 2011, she went to the same pharmacy to buy medication. The mother was in the aisle looking for medication. The paternal grandmother called out the mother's name in a loud voice. Also, the paternal grandmother pushed the mother. The mother asked to be left alone. The grandmother harassed the mother asking about the children. The paternal grandmother said, "[I]t will end very soon." When the mother went to pay for the medication, she saw the father walk out from the pharmacy. The mother went into a grocery store and stayed there until she thought they had gone. The mother walked out of the grocery store and drove out of the parking lot in her rental car. The mother then saw the father and maternal grandmother parked in the driveway. The father and maternal grandmother followed the mother's car in their car for 15 to 20 minutes.

The father testified on May 11, 2011, he was preparing for a school paper and presentation. This occurred at E.E.'s home. E.E. is the father's cousin. The father arrived at E.E.'s house on May 10, a Tuesday. The father was anticipating becoming the godfather to E.E.'s son. The father saw E.E. all day before leaving for school. The father testified he did not leave the house at any time during May 11. The paternal grandmother, who cannot drive, was with him the whole day. The father denied trying to pick up prescription drugs for the children. He also denied calling the mother any time at her workplace since the restraining order was in place. The father testified he wanted the restraining order lifted. This was because the mother told him that the department forced her to sign the restraining order application.

E.E., who lived in Corona, was the father's cousin. According to E.E., the father came to visit on May 10, 2011. The paternal grandmother accompanied the father. The juvenile court asked E.E. what day of the week was May 10, 2011. Also, he was asked why he remembered the May 10 visit. E.E. replied he did not know. E.E. testified the father spent the night. E.E. explained why the father stayed overnight: "I was doing something with my child. I want him be the godson for my child. I invited him and he came around." E.E. saw the father around lunchtime on May 11. The father was studying for a school presentation. The father said he was going to school around 4 p.m.

The juvenile court did not credit the testimony of the father and E.E. The juvenile court noted E.E. could not explain why he specifically remembered the May 10 date. The juvenile court found the father “lost all” credibility. The juvenile court noted the father had requested a six-month instead of a three-year restraining order. But seven days before the six month restraining order ended, he had followed the mother on the street for 15 to 20 minutes. The juvenile court found: “The father is still in complete denial of original allegations. Still thinks the mother at this point is under the influence of the department and that is why she is requesting the restraining order, and still wanting to contact the mother. Still in total denial with the extreme, extreme domestic violence in this case, where the mother was so afraid to say anything to the social worker about what was going on with this family, so much so it jeopardized her own children.” The juvenile court issued a three-year restraining order against the father and ordered him to have no contact with the mother or children.

III. DISCUSSION

A. Standard of Review

We review the juvenile court’s restraining order under the substantial evidence test. (*In re B.S., Jr.* (2009) 172 Cal.App.4th 183, 193; *In re Brittany K.* (2005) 127 Cal.App.4th 1497, 1512; *In re Cassandra B.* (2004) 125 Cal.App.4th 199, 210-211.) The juvenile court’s issuance of the restraining order will not be disturbed if substantial evidence supports the order. (*In re B.S., Jr. supra*, 172 Cal.App.4th at p.193; *In re Cassandra B., supra*, 125 Cal.App.4th at pp. 210-211.) We also review an order terminating a parent’s visitation with their child for substantial evidence. (*In re Mark L.* (2001) 94 Cal.App.4th 573, 580-581; see *Sheila S. v. Superior Court* (2000) 84 Cal.App.4th 872, 880-881.) We draw all reasonable inferences from the evidence to support the findings and adhere to the principle that issues of fact, weight, and credibility

are the juvenile court's provinces. (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393; *In re Shelley J.* (1998) 68 Cal.App.4th 322, 329.)

B. Restraining Order

Section 213.5, as it was in effect on June 2, 2011, provided in pertinent part: “(a) After a petition has been filed . . . to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, striking, sexually assaulting, stalking, or battering the child or any other child in the household; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; and (3) enjoining any person from behavior, including contacting, threatening, or disturbing the peace of the child, that the court determines is necessary to effectuate orders under paragraph (1) or (2). A court may also issue an ex parte order enjoining any person from contacting, threatening, molesting, attacking, striking, sexually assaulting, stalking, battering, or disturbing the peace of any parent . . . upon application in the manner provided by Section 527 of the Code of Civil Procedure. . . . [¶] (d) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, no more than three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.” (Stats. 2005, ch. 634, §1, p. 4837.)

The father argues substantial evidence does not support the juvenile court's June 2, 2011 restraining order. He argues the restraining order application and the mother's testimony do not show he was “molesting, attacking, striking, sexually assaulting, or battering” any of their children. There is substantial evidence to support the juvenile court's June 2, 2011 restraining order. There is extensive evidence of severe physical and

emotional abuse contained in the: detention report; the jurisdiction/disposition report; the letters attached to the section 388 petition; the status review report; and the mother's testimony at the restraining order hearing. The father's prior physical and verbal abuse and molestation of the children supports the juvenile court's restraining order. (*In re B.S., Jr. supra*, 172 Cal.App.4th at p. 193 ["evidence that the restrained person has previously molested, attacked, struck, sexually assaulted, stalked, or battered the child is certainly sufficient" but not necessary]; *In re Brittany K., supra*, 127 Cal.App.4th at p. 1512 [evidence of previous stalking]; *In re Cassandra B., supra*, 125 Cal.App.4th at pp. 210-213 [evidence of previous molestation].) No rational argument can be made the juvenile court abused its discretion in issuing its third injunctive order in this case.

C. No Contact Visitation Order

Section 362.1, subdivision (a) provides in relevant part: "(a) In order to maintain ties between the parent or guardian and any siblings and the child, and to provide information relevant to deciding if, and when, to return a child to the custody of his or her parent or guardian, or to encourage or suspend sibling interaction, any order placing a child in foster care, and ordering reunification services, shall provide as follows: [¶] (1)(A) Subject to subparagraph (B), for visitation between the parent or guardian and the child. Visitation shall be as frequent as possible, consistent with the well-being of the child. [¶] (B) No visitation order shall jeopardize the safety of the child. . . ." The Court of Appeal has explained, "[T]he parents' interest in the care, custody and companionship of their children is not to be maintained at the child's expense; the child's input and refusal and the possible adverse consequences if a visit is forced against the child's will are factors to be considered in administering visitation." (*In re S.H.* (2003) 111 Cal.App.4th 310, 317; see *Los Angeles County Dept. of Children & Family Services v. Superior Court* (2006) 145 Cal.App.4th 692, 699.)

The father argues the three-year restraining order terminated any contact and thus all visitation with the children. He argues the order terminating his visits with the

children was not supported by substantial evidence. The father acknowledges the children are fearful of him and do not want visits with him. But the father contends there is no evidence he would endanger the physical safety of the children at any of the visits. The father further argues the juvenile court's order was based only on his denial of the petition's original allegations rather than any danger to the children's emotional safety. We disagree.

Substantial evidence supports the juvenile court's termination of visits between the father and children during the three-year restraining order period. First, the juvenile court found the father was "still in complete denial of all the original allegations" after listening to his testimony at the June 2, 2011 restraining order hearing. In addition, the father has failed to attend any court ordered domestic violence classes or anger management counseling. The father's therapist stated he took responsibility for some misconduct but minimized his culpability. The father refused to go into depth regarding the allegations and became very agitated and resistant when asked by his therapist why his children felt the way they do. Second, there is substantial evidence visits with the father will endanger the physical safety of the children. As noted, there is substantial evidence of serious physical and emotional abuse set forth in the: detention and jurisdiction/disposition reports; the letters attached to the section 388 petition; the status review report; and the mother's testimony.

Finally, visitation with the father poses serious risks to the children's emotional well-being. P.A. told the department the very thought of being in her father's company causes depression, fear, and the feeling he will return to the home and the beatings will resume. Dr. Valladares stated P.A. was diagnosed with post-traumatic stress disorder due to constant exposure to physical and emotional abuse. The abuse had been occurring since P.A. was an infant. Dr. Valladares stated, "[I]t is it is my professional opinion that visits with father would not be in the best interest of [P.A.'s] mental health." B.A. would punch and cut herself when she thought about the father. B.A. also reported shaking and her heart pounding when she thinks the father is following her. Ms. Smith, B.A.'s therapist concluded, "[I]nteractions with her father would be detrimental to the

therapeutic process and contribute to [B.A.'s] thought provoking anxiety and depression.” Ms. Smith, is P.H.A.'s therapist. Ms. Smith stated P.H.A. feared attending court. This was because P.H.A. was afraid to see the father. Ms. Smith stated P.H.A. is often scared and anxious in public places. This is because P.H.A. has reoccurring thoughts of being stalked by the father. Ms. Smith concluded, “Because [P.H.A] discloses that the reminder of the abuse triggers his symptoms of anxiety and paranoid behaviors, interaction with his father would be detrimental to the therapeutic process and contribute to his thought provoking anxiety.” Ms. Gonzalez, the twins' therapist, stated both P.P.A. and P.S.A. were “apprehensive and have verbalized being in constant fear with the idea of being in close proximity with” the father. Ms. Gonzalez expressed concern about the twins' emotional well-being. Based on the foregoing, substantial evidence supports the juvenile court's termination of the father's visits with the children.

D. Due Process

A parent has a due process right to be informed of the nature of the hearing; and the allegations upon which a custody deprivation maybe predicated. This is to allow a parent to make an informed decision whether to appear and contest the allegations. (*In re Willford J.* (2005) 131 Cal.App.4th 742, 751; see *In re B.G.* (1974) 11 Cal.3d 679, 688-689 [“Since the interest of a parent in the companionship, care, custody, and management of his children is a compelling one, ranked among the most basic of civil rights (citations), the state, before depriving a parent of this interest, must afford him adequate notice and an opportunity to be heard”].) The Court of Appeal has stated: “[P]arents are entitled to due process notice of juvenile proceedings affecting their interest in custody of their children. [Citation.] And due process requires ‘notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.’ [Citation.]” (*In re Melinda J.* (1991) 234 Cal.App.3d 1413, 1418; accord *In re Anna M.* (1997) 54 Cal.App.4th 463, 468.)

The father admits he received notice of both the restraining order hearing and its nature. On May 18, 2011 the father was advised if he was not present on June 2, 2011, the juvenile court could proceed in his absence and a three year restraining order could issue. The father contends he was deprived of due process because he did not receive notice of the factual predicate upon which the juvenile court would act to terminate all contact between himself and the children. But the juvenile court stated on May 18, 2011, it intended to consider the oral section 388 petition to terminate the father's visits with the girls at the June 2, 2011 hearing. The juvenile court also ordered the three boys present for a courthouse visit with the father on June 2, 2011. Their presence was designed to give the juvenile court "some sense of whether forcing visits in the future" would be detrimental. However, at the June 2, 2011 hearing, the father failed to object when the juvenile court notified him that as part of a restraining order he could have no contact with the children, even in a therapeutic setting. Thus, the father has forfeited his right to challenge the alleged inadequate notice. (*In re B.G.*, *supra*, 11 Cal.3d at p. 689; *In re Willford J.*, *supra*, 131 Cal.App.4th at p. 754; *In re S.B.* (2004) 32 Cal.4th 1287, 1293 "[a reviewing court ordinarily will not consider a challenge to a ruling if an objection could have been but was not made in the trial court"].)

IV. DISPOSITION

The June 2, 2011 visitation and restraining orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

TURNER, P. J.

We concur:

ARMSTRONG, J.

KRIEGLER, J.